UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:24-m	nj-01100-KS
UNITED STATES OF AMERICA))
v.) MOTION TO DIMISS WITH PREJUDICE
TYLER W SMITH))
Defendant.))

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby moves this Honorable Court for an Order dismissing Counts One and Two in the above-captioned case with prejudice.

FACTUAL BACKGROUND

On January 31, 2024, the United States filed a two-count Criminal Information pertaining to the above-captioned case with this Court. Count One of the Criminal Information charged the Defendant with driving while intoxicated, in violation of Title 18, United States Code, Section 13, assimilating North Carolina General Statutes 20-138.1. Count Two of the Criminal Information charged the Defendant with operate a motor vehicle upon a street, highway, or public vehicular area and did fail to maintain the limits of his lane, in violation of North Carolina General Statute § 20-146(d)(1), as adopted and made applicable by Title 32, Code of Federal Regulations, Part 210.3.

The charges in the Criminal Information arose from a January 17, 2024, incident on the Fort Liberty military reservation. On March 22, 2024, the Defendant's Commander preferred nonjudicial punishment of driving while impaired (Art. 113) under the Uniform Code of Military Justice against the Defendant. Because the Defendant received punishment via Article 15 equal to or greater than that which she faces at this venue, the United States believes the interests are justice are adequately served by the military justice system. The United States respectfully asks this Honorable Court to dismiss Counts One and Two.

<u>ARGUMENT</u>

Rule 48(a), Federal Rules of Criminal Procedure, provides that "The government may, with leave of court, dismiss an indictment, information, or complaint." In the present case, the Court should grant the government's request for dismissal with prejudice, because a dismissal in this case would not be clearly contrary to manifest public interest, as the government's motion to dismiss is not made in bad faith. *See United States v. Goodson*, 204 F.3d 508, 512 (4th Cir. 2000). Furthermore, the Defendant has not been prejudiced by unnecessary delay.

CONCLUSION

For the foregoing reasons, the United States respectfully moves the Court for an Order dismissing Count One and Two of the Criminal Information in the above-referenced case with prejudice.

Respectfully submitted this 11th day of April, 2024.

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CERTIFICATE OF SERVICE

This is to certify that I have this 11th day of April, 2024, served a copy of the foregoing Government's Notice of Substitution of Counsel upon the defendant by electronically filing the foregoing with the Clerk of Court, using the CM/ECF system which will send notification of such filing to:

Matthew R. Plyler Plyler Law Firm P.A. Post Office Box 53987 Fayetteville, NC 28305 910-483-4529 mplyler@plylerlaw.com

BY: /s/ Henry R. Carras HENRY R. CARRAS Special Assistant U.S. Attorney OSJA, XVIII Airborne Corps 2175 Rock Merritt Road, Stop A Fort Liberty, NC 28310-5000 Email: henry.r.carras.mil@army.mil

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